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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark Shu et al.

Examiner: Alvin J. Stewart

Serial No.: 10/792,186

Group Art Unit: 3738

Filed: March 3, 2004

Docket No.: M190.148.101/P-11480.00

Title: SUTURE LOCKING ASSEMBLY AND METHOD OF USE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We are transmitting herewith the attached:

☒ Transmittal Sheet containing Certificate of Mailing under 37 C.F.R. 1.8

☒ Response to Restriction Requirement 3 pgs.

☐ Petition for a Extension of Time 1 pg.

☐ The Commissioner is authorized to charge **\$0.00** to Deposit Account No. 500471 to cover the Extension of Time Fee

☐ Other: _____

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Customer No. 025281

By _____

Name: Timothy A. Czaja (Reg. No. 39,649)

Please consider this a Petition for Extension of Time for a sufficient number of months to enter these papers, if appropriate. At any time during the pendency of this application, please change any additional fees or credit overpayment to Deposit Account No. 500471.

CERTIFICATE UNDER 37 C.F.R. 1.8:

Date of Deposit: March 14, 2007

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service as First Class Mail, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Name: Timothy A. Czaja



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RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed February 12, 2007, in which a Restriction Requirement was set forth relative to the Examiner-identified inventions of Group I (claims 1-31 and 51-53) and Group II (claims 32-50). In response, Applicant hereby elects Group I (claims 1-31 and 51-53) with traverse for at least the reasons provided below.

The Examiner asserts that the product as claimed (Group I) can be used in a materially different process (as compared to Group II) because the product (Group I) "as claimed can be practiced without the step of pulling the suture through a second position." The suture locking assembly of claim 1 (included in Group I) includes a rim and a suture band; claim 32 (Group I) includes identical limitations. Further, claim 1 recites that the suture locking assembly "is configured to securely maintain a suture segment that is pulled from a first position to a second position relative to the suture locking assembly." Thus, practicing of the suture locking assembly of claim 1 (and thus the Examiner-identified inventions of Group I) does, in fact, necessitate pulling a suture to a second position such that the Examiner-identified distinction between Groups I and II is not viable. As such, it is respectfully requested that the Restriction Requirement be withdrawn.

As a point of reference, it is noted that claim 1 (Group I) relates to a product and that claim 32 (Group II) relates to a process or method of using the product. Under these

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circumstances, Applicant respectfully notes the provisions of MPEP §806.05(h) under which the method claims (Group II) can be rejoined in the event the product claims are subsequently found allowable.

In addition, the Office Action recites a species election requirement directed toward the following Examiner-identified species: Species I (FIG. 8); Species II (FIG. 9); Species III (FIG. 15); Species IV (FIG. 16); Species V (FIGS. 24A-24B); and Species VI (FIGS. 25A-25B). In response, it is noted that many of the figures included with the application as filed are not specifically designated by the Examiner in the species identification (e.g., FIGS. 32-43B). To the extent the Examiner views these various un-designated figures as being inclusive within each of Species I-VI, Applicant elects Species V, and identifies all claims (1-53) as being encompassed by the elected invention. To the extent the Examiner is of a different opinion relative to the species status of at least FIGS. 32-43B, Applicant respectfully traverses the Species Election Requirement for failing to provide a reason or basis for segmenting the inventions of FIGS. 32-43B, and respectfully submits that it is impossible to provide a complete response to the species election requirement. Clarification is respectfully requested.

Any inquiry regarding this Response should be directed to Timothy A. Czaja at Telephone No. (612) 573-2004, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

Mark Shu et al.,

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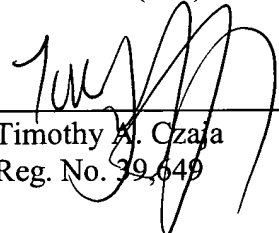
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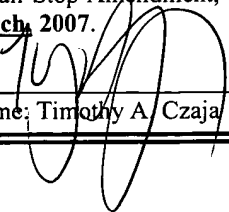
Date: March 14, 2007
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Timothy A. Czaja
Reg. No. 39,649

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14th day of March, 2007.

By: 

Name: Timothy A. Czaja